

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVE SANDS,

Plaintiff,

- against -

DOG TECH, LLC,

Defendant.

Docket No. 18-cv-8089

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Steve Sands (“Sands” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Dog Tech, LLC (“DoG Tech” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of actors in the film Café Society, owned and registered by Sands, a New York based professional photographer. Accordingly, Sands seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant has its principal place of business in New York, in this judicial district

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Sands is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 568 Grand St., Apt. J903, New York, NY 10002.

6. Upon information and belief, DoG Tech is a foreign limited liability company duly organized and existing under the laws of the State of Florida, with its principal place of business at 1410 Broadway 23rd Floor, Suite 11, New York, NY 10018. At all times material, hereto, DoG Tech has owned and operated a website at the URL: www.denofgeek.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Sands photographed actors Jesse Eisenberg, Kristen Stewart on the set during the filming of Café Society (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Sands is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-007-340 and was titled “TheAtlantic_CafeSociety-160329.jpg.” See Exhibit B.

B. Defendant’s Infringing Activities

10. On or about July 12, 2016, DoG Tech ran an article on the Website titled *Cafe Society Review Woody Allen revisits old '30s haunts in Cafe Society with Jesse Eisenberg, Kristen Stewart, and Steve Carell to charming results*. See URL

<http://www.denofgeek.com/us/movies/caf-society/256915/cafe-society-review>. (the “Article”)

The Article prominently featured the Photograph as its banner image. A true and correct copy of the Article is attached hereto as Exhibit C.

11. DoG Tech did not license the Photograph from Plaintiff for its article, nor did DoG Tech have Plaintiff’s permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. DoG Tech infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. DoG Tech is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff’s rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff’s copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant’s profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant DoG Tech be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded its attorneys fees pursuant to 17 U.S.C. § 505.
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 5, 2018

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